

Message Text

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ACTION EUR-25

INFO OCT-01 ISO-00 L-03 JUSE-00 PM-07 NSC-07 SP-03 SS-20

RSC-01 CIAE-00 INR-10 NSAE-00 EB-11 OMB-01 TRSE-00

COME-00 PRS-01 H-03 EURE-00 DRC-01 /094 W

----- 074503

P R 261235Z APR 74

FM AMEMBASSY ROME

TO SECSTATE WASHDC PRIORITY 4507

SECDEF WASHDC PRIORITY

INFO CGSETAF VICENZA

40TH TAC GRP LIVORNO

MED DIV ENG LIVORNO

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E.O. 11652: N/A

TAGS: MARR, IT

SUBJECT: DUNN-VANONI

REF: A. ROME 3631; B. ROME 3733; C. STATE 054756

1. BEGIN SUMMARY. UNEXPECTED OBDURACY ON PART OF CORTE DEI CONTE HAS SCUTTLED OUR EXPECTATION THAT GOI WOULD MAKE EARLY REIMBURSEMENTS, BY ADMINISTRATIVE MEASURES, OF OUTSTANDING CONTRACTOR CLAIMS UNDER THE DUNN-VANONI AGREEMENT. REIMBURSEMENTS MAY YET BE FORTHCOMING, BUT ONLY AFTER RENEWED ROUND OF INTER-MINISTERIAL CONSULTATIONS DESIGNED TO PRODUCE DECISION TO DIRECT CORTE DEI CONTE TO REGISTER ("APPROVE") PAYMENTS WITH "RESERVATIONS". GIVEN LENGTH OF TIME THIS WILL LIKELY ENTAIL, EMBASSY CANNOT IN ALL CONSCIENCE OPPOSE IMMEDIATE U.S. REIMBURSEMENT OF CESICA PURSUANT TO DECISION OF BOARD OF CONTRACT APPEALS. END SUMMARY.

2. SINCE RECEIPT OF ITALIAN NOTE VERBALE (REFS A AND B), WE HAVE REPEATEDLY STRESSED TO BOTH MFA AND MOD NEED TO SECURE IMMEDIATE REIMBURSEMENT OF CESICA CLAIM IN LIGHT OF AUGUST
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1973 ARMED SERVICES BOARD OF CONTRACT APPEALS DECISION IN CESICA

APPEAL. MATTERS CAME TO A HEAD AT INTER-MINISTERIAL MEETING ON APRIL 19. MEETING, WHICH LASTED OVER FOUR HOURS, SAW GENERAL CUCINO (SECRETARY GENERAL OF MOD), MINISTER DA RIN (MFA NATO OFFICE CHIEF), AND PRIME MINISTER'S OFFICE REPRESENTATIVE ALL ARGUE STRENUOUSLY FOR IMMEDIATE PAYMENT TO CESICA. CORTE DEI CONTE REPRESENTATIVE WAS, HOWEVER, UNYIELDING. HE MAINTAINED THAT SUCH PAYMENT WOULD BE ILLEGAL IN ABSENCE OF PARLIAMENTARY APPROVAL.

3. IN APRIL 22 CONVERSATION, DA RIN TOLD EMBOFF THAT AFTER MEETING HE HAD PREPARED AN URGENT MEMORANDUM FOR FOREIGN MINISTER MORO OUTLINING THE POSITION OF THE COURT AND URGING A QUICK "POLITICAL" DECISION BY CONCERNED MINISTERS TO, IN EFFECT, OVERRULE THE COURT BY DIRECTING IT TO REGISTER THE PAYMENT ALBEIT WITH RESERVATIONS. THE RISK WITH THIS COURSE OF ACTION, ACCORDING TO DA RIN, IS THAT PARLIAMENT WOULD LEARN OF IT AND ANOTHER FINANCIAL "SCANDAL" WOULD RESULT. HE COULD NOT THEREFORE ASSURE US WITH CERTITUDE THAT THE POLITICAL DECISION WOULD BE TAKEN, MUCH LESS THAT IT WOULD HAPPEN SOON.

4. COMMENT: AND SO, ONCE AGAIN WE FIND OURSELVES POSSIBLY BACK AT SQUARE ONE REGARDING DUNN-VANONI. IN VIEW OF THIS, AND THE PRESSURES BEING EXERTED BY THE CESICA FIRM ON THE MED ENGINEERS FOR IMMEDIATE PAYMENT OF ITS CLAIM, WE PERCEIVE NO REAL ALTERNATIVE TO PROCEEDING WITH THE PAYMENT. WE WOULD RECOMMEND THAT IN DOING SO CESICA BE OBLIGED TO STATE IN WRITING THAT IF IT IS EVENTUALLY REIMBURSED BY THE GOI, IT WOULD REIMBURSE THE U.S. FOR OUR PAYMENT. (WE UNDERSTAND THE FIRM HAS OFFERED TO DO THIS.) AS FOR THE MATTER OF OTHER PAYMENTS, WE BELIEVE WE SHOULD LET THE GOI PLAY OUT THE STRING ON THE PROPOSAL TO OVERRULE THE CORTE DEI CONTE BEFORE PAYING FIRMS OTHER THAN CESICA. IT WILL BE EASIER (IF THAT IS THE RIGHT WORD) FOR THEM TO BITE THE BULLET ON ONE CASE THAN IF CONFRONTED WITH NUMEROUS SIMULTANEOUS CLAIMS. AS TO WHAT WE SHOULD DO, THE AMBASSADOR PROPOSES TO WRITE FOREIGN MINISTER MORO (WITH A COPY TO DEFENSE MINISTER ANDREOTTI) EXPRESSING OUR KEEN DISAPPOINTMENT OVER THE FAILURE OF THE GOI TO EFFECT REIMBURSEMENTS OF OUTSTANDING CONTRACTOR CLAIMS UNDER THE DUNN-VANONI AGREEMENT. THE LETTER WOULD INFORM HIM OF OUR REQUIREMENTS TO PAY CESICA AND EMPHASIZE THAT THIS PAYMENT IN NO WAY ALTERS THE OBLIGATIONS OF THE GOI UNDER THE DUNN-VANONI AGREEMENT. AND FINALLY, IT WOULD URGE MORO TO TAKE STEPS TO ASSURE LIMITED OFFICIAL USE

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THAT THE NECESSARY ACTION IS TAKEN TO ENSURE REIMBURSEMENTS IN SUBSEQUENT CASES. (OVERRULING THE COURT HAS BEEN DONE ONCE BEFORE AND THE POLITICAL REACTION IN PARLIAMENT WAS SEVERE. HENCE, THE DECISION WILL NOT BE TAKEN LIGHTLY.) THE PRIME MINISTER'S DIPLOMATIC ADVISOR (PETRIGIANI) CONCURS IN THE DESIRABILITY OF SUCH A LETTER, STATING THAT IT WOULD BE HELPFUL TO BOTH MORO AND ANDREOTTI IN THEIR EFFORTS TO SECURE GOVERNMENTAL APPROVAL OF DUNN-VANONI REIMBURSEMENTS.

5. CONCURRENCE IN THE ABOVE COURSE OF ACTION IS REQUESTED. VOLPE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MILITARY BUDGET, GOVERNMENT EXPENDITURES, DEBT REPAYMENTS
Control Number: n/a
Copy: SINGLE
Draft Date: 26 APR 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GarlanWA
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974ROME05770
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740099-0499
From: ROME
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740411/aaaaaivz.tel
Line Count: 117
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: A. ROME 3631; B. ROME 3733; C. STATE
Review Action: RELEASED, APPROVED
Review Authority: GarlanWA
Review Comment: n/a
Review Content Flags:
Review Date: 21 MAY 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <21 MAY 2002 by shawdg>; APPROVED <28 MAR 2003 by GarlanWA>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: DUNN-VANONI
TAGS: MARR, IT
To: STATE DOD
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005